

## The Honorable S. Kate Vaughan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TSR LLC,

Plaintiff,

V.

## WIZARDS OF THE COAST LLC,

Defendant.

Case No. 2:21-cv-01705-SKV

## **MOTION FOR STIPULATED PROTECTIVE ORDER**

**NOTE ON MOTION CALENDAR:  
June 14, 2022**

WIZARDS OF THE COAST LLC,

#### **Counterclaim Plaintiff,**

V.

TSR LLC; JUSTIN LANASA; and  
DUNGEON HOBBY SHOP MUSEUM LLC,

#### **Counterclaim Defendants.**

## I. RELIEF SOUGHT

Pursuant to Rule 26(c), Plaintiff and Counterclaim Defendant TSR LLC, Defendant and Counterclaim Plaintiff Wizards of the Coast LLC, and Counterclaim Defendants Justin LaNasa and Dungeon Hobby Shop Museum LLC (collectively, the “parties” or in the singular each a “party”) jointly move the Court for an order adopting and entering a proposed Stipulated Protective Order, filed herewith as Exhibit A.

The Proposed Stipulated Protective Order, agreed to by the parties, is entered to facilitate the production of discovery materials between the parties and is not an admission by any of the parties that material produced pursuant to the proposed Stipulated Protective Order is in fact, confidential, proprietary or private information that warrants confidential treatment under Rule 26(c)(1) of the Federal Rules of Civil Procedure (“Rule 26(c)(1)”). The parties, however, agree that entry of the proposed Stipulated Protective Order will protect the respective interests of the parties in producing material they believe, in good faith, warrants protection pursuant to Rule 26(c)(1) and provides a framework for the parties to make any necessary challenges to the confidentiality designation of the producing party.

## **II. CERTIFICATION**

On April 18, 2022, the undersigned parties held a telephonic, remote good faith meet and confer conference, and subsequently on May 17, 2022, submitted their Joint Status Report and Proposed Discovery Plan (Dkt. 24) pursuant to Federal Rule of Civil Procedure 26(f), Local Civil Rule 26(f), and the Court’s Order Regarding Initial Disclosures, Joint Status Report, Case Procedures, and Early Settlement (Dkt. 20).

In preparing the proposed Stipulated Protective Order, the parties followed the directives set forth for such an order on the website for the Western District of Washington. Specifically, each of the parties made their best effort to list specific categories of documents that they may, respectively, contend are entitled to protection pursuant to Rule 26(c)(1).

Accordingly, in Section 2 of the proposed Stipulated Protective Order, the parties listed the categories of documents that they may contend are protected by Rule 26(c)(1) and/or are entitled to special protection: confidential business and financial information, including but not limited to proprietary business information and sensitive customer or client information.

The proposed Stipulated Protective Order is limited to information that one or more of the respective parties may contend is entitled to confidential treatment under applicable legal

1 principles and does not purport to confer blanket protection on all disclosures or responses to  
2 discovery. Nor does the proposed Stipulated Protective Order presumptively entitle the Parties  
3 to file confidential information under seal. Pursuant to Local Rule 26(c)(2), a redline  
4 comparing the proposed Stipulated Protective Order with the Model Stipulated Protective  
5 Order for the Western District of Washington is filed herewith as Exhibit B.

### 6                   **III. STIPULATION**

7                   During the course of this litigation, the parties will produce documents or stipulate to  
8 the release of documents, including confidential business and financial information, including  
9 but not limited to proprietary business information and sensitive customer or client  
10 information. Finally, the parties' production of documents and information will include  
11 personal contact information of third parties.

12                  The above-identified material is discoverable under Rule 26(a) of the Federal Rules of  
13 Civil Procedure, subject to possible redactions. The parties want to ensure that the information  
14 is not disclosed outside the confines of litigation between them. To that end, the parties jointly  
15 submit the proposed Stipulated Protective Order, filed herewith as Exhibit A, to protect  
16 information designated as "confidential" by any party, and provide a mechanism for resolving  
17 disputes over whether information should be covered by the proposed Stipulated Protective  
18 Order. The parties believe that the proposed Stipulated Protective Order is the appropriate  
19 vehicle for ensuring that confidential information is accessible to all parties without exposing  
20 the provider to unnecessary disclosure of confidential information.

### 21                   **IV. CONCLUSION**

22                  For the foregoing reasons, the parties respectfully request that the Court grant their  
23 joint Motion for Stipulated Protective Order pursuant to Rule 26(c) of the Federal Rules of  
24 Civil Procedure. The parties jointly ask that this Court enter the Stipulated Protective Order  
25 in the form attached as Exhibit A.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: June 14, 2022

s/ Dayna J. Christian  
Dayna J. Christian, WSB #32459  
Immix Law Group PC  
400 Winslow Way E., Suite 210  
Bainbridge Island, WA 98110  
Phone: (503) 802-5533  
Fax: (503) 802-5351  
Email: dayna.christian@immixlaw.com  
*Attorneys for Plaintiff and Counterclaim Defendants*

9 DATED: June 14, 2022

s/ Russell D. Nugent  
Russell D. Nugent, *pro hac vice*  
The Humphries Law Firm P.C.  
1904 Eastwood Rd, Ste 310A  
Wilmington, NC 28403  
Phone: 910-899-0236  
Fax: 888-290-7817  
Email: russell@kinglawonline.com  
*Attorneys for Plaintiff and Counterclaim Defendants*

16 DATED: June 14, 2022

s/ Lauren B. Rainwater  
Stuart R. Dunwoody, WSBA #13948  
Lauren B. Rainwater, WSBA #43625  
MaryAnn T. Almeida, WSBA #49086  
Eric A. Franz, WSBA #52755  
DAVIS WRIGHT TREMAINE LLP  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Telephone: (206) 622-3150  
Fax: (206) 757-7700  
Email: stuartdunwoody@dwt.com  
Email: laurenrainwater@dwt.com  
Email: maryannalmeida@dwt.com  
Email: ericfranz@dwt.com  
*Attorneys for Defendant and Counterclaim Plaintiff*

**EXHIBIT A**

**PROPOSED STIPULATED PROTECTIVE ORDER**

## The Honorable S. Kate Vaughan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TSR LLC,

Plaintiff,

V.

WIZARDS OF THE COAST LLC,

Defendant.

Case No. 2:21-cv-01705-SKV

## **STIPULATED PROTECTIVE ORDER**

WIZARDS OF THE COAST LLC,

### Counterclaim Plaintiff,

V.

TSR LLC; JUSTIN LANASA; and  
DUNGEON HOBBY SHOP MUSEUM LLC,

## Counterclaim

## Defendants.

## I. STIPULATION

## **1. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, Plaintiff and Counterclaim Defendant TSR LLC, Defendant and Counterclaim Plaintiff Wizards of the

1 Coast LLC, and Counterclaim Defendants Justin LaNasa and Dungeon Hobby Shop Museum  
2 LLC (collectively, the “parties” or in the singular each a “party”) hereby stipulate to and  
3 petition the court to enter the following Stipulated Protective Order. The parties acknowledge  
4 that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all  
5 disclosures or responses to discovery, the protection it affords from public disclosure and use  
6 extends only to the limited information or items that are entitled to confidential treatment under  
7 the applicable legal principles, and it does not presumptively entitle parties to file confidential  
8 information under seal.

9 2. **“CONFIDENTIAL” MATERIAL**

10 “Confidential” material shall include the following documents and tangible things  
11 produced or otherwise exchanged: Confidential business and financial information, including  
12 but not limited to proprietary business information and sensitive customer or client  
13 information.

14 3. **SCOPE**

15 The protections conferred by this agreement cover not only confidential material (as  
16 defined above), but also (1) any information copied or extracted from confidential material;  
17 (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any  
18 testimony, conversations, or presentations by parties or their counsel that might reveal  
19 confidential material.

20 However, the protections conferred by this agreement do not cover information that is  
21 in the public domain or becomes part of the public domain through trial or otherwise.

22 4. **ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

23 4.1 **Basic Principles.** A receiving party may use confidential material that is  
24 disclosed or produced by another party or by a non-party in connection with this case only for  
25 prosecuting, defending, or attempting to settle this litigation. Confidential material may be

1 disclosed only to the categories of persons and under the conditions described in this  
2 agreement. Confidential material must be stored and maintained by a receiving party at a  
3 location and in a secure manner that ensures that access is limited to the persons authorized  
4 under this agreement. It is expressly intended and agreed that Confidential material will not be  
5 made public via social media, Internet publication, or otherwise.

6       4.2     Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
7 ordered by the court or permitted in writing by the designating party, a receiving party may  
8 disclose any confidential material only to:

9               (a)     the receiving party’s counsel of record in this action, as well as  
10 employees of counsel to whom it is reasonably necessary to disclose the information for this  
11 litigation;

12               (b)     the officers, directors, and employees (including in house counsel) of the  
13 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties  
14 agree that a particular document or material produced is for Attorney’s Eyes Only and is so  
15 designated;

16               (c)     experts and consultants to whom disclosure is reasonably necessary for  
17 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
18 (Exhibit A);

19               (d)     the court, court personnel, and court reporters and their staff, including  
20 any court reporter or videographer reporting a deposition;

21               (e)     copy or imaging services, database services, and trial support firms  
22 retained by counsel to assist in the duplication, production, or storage of confidential material,  
23 provided that counsel for the party retaining the service instructs the service not to disclose  
24 any confidential material to third parties and to immediately return all originals and copies of  
25 any confidential material;

1                         (f)     during their depositions, witnesses in the action to whom disclosure is  
2 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
3 Bound” (Exhibit A), unless otherwise agreed by the designating party or ordered by the court.  
4 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential  
5 material must be separately bound by the court reporter and may not be disclosed to anyone  
6 except as permitted under this agreement;

7                         (g)     the author or recipient of a document containing the information or a  
8 custodian or other person who otherwise possessed or knew the information;

9                         (h) professional jury or trial consultants, mock jurors, and professional vendors  
10 to whom disclosure is reasonably necessary for this litigation and who have signed the  
11 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

12                         (i)     other persons only by written consent of the producing party or upon  
13 order of the court, and on such conditions as may be agreed or ordered.

14                  4.3     Filing Confidential Material. Before filing confidential material or discussing or  
15 referencing such material in court filings, the filing party shall confer with the designating  
16 party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating  
17 party will remove the confidential designation, whether the document can be redacted, or  
18 whether a motion to seal or stipulation and proposed order is warranted. During the meet and  
19 confer process, the designating party must identify the basis for sealing the specific  
20 confidential information at issue, and the filing party shall include this basis in its motion to  
21 seal, along with any objection to sealing the information at issue. Local Civil Rule 5(g) sets  
22 forth the procedures that must be followed and the standards that will be applied when a party  
23 seeks permission from the court to file material under seal. A party who seeks to maintain the  
24 confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B),  
25 even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result

1 in the motion to seal being denied, in accordance with the strong presumption of public access  
2 to the Court's files.

3 **5. DESIGNATING PROTECTED MATERIAL**

4       **5.1 Exercise of Restraint and Care in Designating Material for Protection.** Each  
5 party or non-party that designates information or items for protection under this agreement  
6 must take care to limit any such designation to specific material that qualifies under the  
7 appropriate standards. The designating party must designate for protection only those  
8 materials, documents, items, or oral or written communications that qualify, so that other  
9 materials, documents, items, or communications for which protection is not warranted are not  
10 swept unjustifiably within the ambit of this agreement.

11           Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
12 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to  
13 unnecessarily encumber or delay the case development process or to impose unnecessary  
14 expenses and burdens on other parties) expose the designating party to sanctions.

15           If it comes to a designating party's attention that information or items that it designated  
16 for protection do not qualify for protection, the designating party must promptly notify all other  
17 parties that it is withdrawing the mistaken designation.

18       **5.2 Manner and Timing of Designations.** Except as otherwise provided in this  
19 agreement (*see, e.g.*, section 5.2(b) below), or as otherwise stipulated or ordered, disclosure or  
20 discovery material that qualifies for protection under this agreement must be clearly so  
21 designated before or when the material is disclosed or produced.

22           (a)     **Information in documentary form:** (*e.g.*, paper or electronic documents  
23 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial  
24 proceedings) the designating party must affix the word "CONFIDENTIAL" to the bottom of  
25 each page of the document.

14        5.3     Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
15 designate qualified information or items does not, standing alone, waive the designating  
16 party's right to secure protection under this agreement for such material. Upon timely  
17 correction of a designation, the receiving party must make reasonable efforts to ensure that the  
18 material is treated in accordance with the provisions of this agreement.

19 | P a g e | 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20       6.1     Timing of Challenges. Any party or non-party may challenge a designation of  
21 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality  
22 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
23 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to  
24 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
25 original designation is disclosed.

1       6.2     Meet and Confer. The parties must make every attempt to resolve any dispute  
 2 regarding confidential designations without court involvement. Any motion regarding  
 3 confidential designations or for a protective order must include a certification, in the motion  
 4 or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer  
 5 conference with other affected parties in an effort to resolve the dispute without court action.  
 6 The certification must list the date, manner, and participants to the conference. A good faith  
 7 effort to confer requires a face-to-face meeting or a telephone conference.

8       6.3     Judicial Intervention. If the parties cannot resolve a challenge without court  
 9 intervention, the designating party may file and serve a motion to retain confidentiality under  
 10 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of  
 11 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those  
 12 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on  
 13 other parties) may expose the challenging party to sanctions. All parties shall continue to  
 14 maintain the material in question as confidential until the court rules on the challenge.

15     7.     PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
 16 OTHER LITIGATION

17       If a party is served with a subpoena or a court order issued in other litigation that  
 18 compels disclosure of any information or items designated in this action as  
 19 “CONFIDENTIAL,” that party must:

20           (a)     promptly notify the designating party in writing and include a copy of  
 21 the subpoena or court order;

22           (b)     promptly notify in writing the party who caused the subpoena or order to  
 23 issue in the other litigation that some or all of the material covered by the subpoena or order is  
 24 subject to this agreement. Such notification shall include a copy of this agreement; and

25           (c)     cooperate with respect to all reasonable procedures sought to be pursued

1 by the designating party whose confidential material may be affected.

2 8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN  
3 THIS LITIGATION

4 The terms of this Stipulated Protective Order are applicable to information produced  
5 by a non-party in this action and designated as "CONFIDENTIAL." Such information  
6 produced by non-parties in connection with this litigation is protected by the remedies and  
7 relief provided by this Stipulated Protective Order. Nothing in these provisions should be  
8 construed as prohibiting a non-party from seeking additional protections.

9 In the event that a party is required, by a valid discovery request, to produce a non-  
10 party's confidential information in its possession, and the party is subject to an agreement with  
11 the non-party not to produce the non-party's confidential information, then the party shall:

- 12 a) promptly notify in writing the requesting party and the non-party that some or  
13 all of the information requested is subject to a confidentiality agreement with a  
14 non-party;
- 15 b) promptly provide the non-party with a copy of the Stipulated Protective Order  
16 in this litigation, the relevant discovery request(s), and a reasonably specific  
17 description of the information requested; and
- 18 c) make the information requested available for inspection by the non-party.

19 If the non-party fails to object or seek a protective order from this court within fourteen  
20 days of receiving the notice and accompanying information, the receiving party may produce  
21 the non-party's confidential information responsive to the discovery request. If the non-party  
22 timely seeks a protective order, the receiving party shall not produce any information in its  
23 possession or control that is subject to the confidentiality agreement with the non-party before  
24 a determination by the court. Absent a court order to the contrary, the non-party shall bear the  
25 burden and expense of seeking protection in this court of its protected material.

1   9.   UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

2       If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
 3 confidential material to any person or in any circumstance not authorized under this agreement,  
 4 the receiving party must immediately (a) notify in writing the designating party of the  
 5 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
 6 protected material, (c) inform the person or persons to whom unauthorized disclosures were  
 7 made of all the terms of this agreement, and (d) request that such person or persons execute  
 8 the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

9   10.   INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE10   PROTECTED MATERIAL

11       When a producing party gives notice to receiving parties that certain inadvertently  
 12 produced material is subject to a claim of privilege or other protection, the obligations of the  
 13 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
 14 provision is not intended to modify whatever procedure may be established in an e-discovery  
 15 order or agreement that provides for production without prior privilege review. The parties  
 16 agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

17   11.   NON-TERMINATION AND RETURN OF DOCUMENTS

18       Within 60 days after the termination of this action, including all appeals, each receiving  
 19 party must return all confidential material to the producing party, including all copies, extracts  
 20 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of  
 21 destruction.

22       Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
 23 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
 24 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert  
 25 work product, even if such materials contain confidential material.

1       The confidentiality obligations imposed by this agreement shall remain in effect until  
2 a designating party agrees otherwise in writing or a court orders otherwise.

3           IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 DATED: June 14, 2022

s/ Dayna J. Christian  
Dayna J. Christian, WSB #32459  
Immix Law Group PC  
400 Winslow Way E., Suite 210  
Bainbridge Island, WA 98110  
Phone: (503) 802-5533  
Fax: (503) 802-5351  
Email: [dayna.christian@immixlaw.com](mailto:dayna.christian@immixlaw.com)  
*Attorneys for Plaintiff and Counterclaim Defendants*

10      DATED: June 14, 2022

s/ Russell D. Nugent  
Russell D. Nugent, *pro hac vice*  
The Humphries Law Firm P.C.  
1904 Eastwood Rd, Ste 310A  
Wilmington, NC 28403  
Phone: 910-899-0236  
Fax: 888-290-7817  
Email: [russell@kinglawonline.com](mailto:russell@kinglawonline.com)  
*Attorneys for Plaintiff and Counterclaim Defendants*

17      DATED: June 14, 2022

s/ Lauren B. Rainwater  
Stuart R. Dunwoody, WSBA #13948  
Lauren B. Rainwater, WSBA #43625  
MaryAnn T. Almeida, WSBA #49086  
Eric A. Franz, WSBA #52755  
DAVIS WRIGHT TREMAINE LLP  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Phone: (206) 622-3150  
Fax: (206) 757-7700  
Email: [stuardunwoody@dwt.com](mailto:stuardunwoody@dwt.com)  
Email: [laurenrainwater@dwt.com](mailto:laurenrainwater@dwt.com)  
Email: [maryannalmeida@dwt.com](mailto:maryannalmeida@dwt.com)  
Email: [ericfranz@dwt.com](mailto:ericfranz@dwt.com)  
*Attorneys for Defendant and Counterclaim Plaintiff*

## II. ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED:

The Honorable S. Kate Vaughan  
United States Magistrate Judge

EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on \_\_\_\_\_ [date] in the case of *TSR LLC v. Wizards of the Coast LLC and Wizards of the Coast LLC v. TSR LLC, Justin LaNasa, and Dungeon Hobby Shop Museum* (Case No. 2:21-cv-01705-SKV). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date:

City and State where sworn and signed:

Printed name:

Signature:

**EXHIBIT B**

**REDLINED STIPULATED PROTECTIVE ORDER**

## The Honorable S. Kate Vaughan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TSR LLC,

Plaintiff,

V.

## WIZARDS OF THE COAST LLC,

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WIZARDS OF THE COAST LLC.

#### **Counterclaim Plaintiff,**

V.

TSR LLC; JUSTIN LANASA; and  
DUNGEON HOBBY SHOP MUSEUM LLC,

Counterclaim

## Defendants.

Case No. 2:21-cv-01705-SKV

## **STIPULATED PROTECTIVE ORDER**

## I. STIPULATION

## **1. PURPOSES AND LIMITATIONS**

1      Discovery in this action is likely to involve production of confidential, proprietary, or  
 2 private information for which special protection may be warranted. Accordingly, Plaintiff and  
 3 Counterclaim Defendant TSR LLC, Defendant and Counterclaim Plaintiff Wizards of the  
 4 Coast LLC, and Counterclaim Defendants Justin LaNasa and Dungeon Hobby Shop Museum  
 5 LLC (collectively, the “parties” or in the singular each a “party”) ~~the parties~~ hereby stipulate  
 6 to and petition the court to enter the following Stipulated Protective Order. The parties  
 7 acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket  
 8 protection on all disclosures or responses to discovery, the protection it affords from public  
 9 disclosure and use extends only to the limited information or items that are entitled to  
 10 confidential treatment under the applicable legal principles, and it does not presumptively  
 11 entitle parties to file confidential information under seal.

12     2.     “CONFIDENTIAL” MATERIAL

13     “Confidential” material shall include the following documents and tangible things  
 14 produced or otherwise exchanged: ~~[The parties must include a list of specific documents such~~  
 15 ~~as “company’s customer list” or “plaintiff’s medical records;” do not list broad categories of~~  
 16 ~~documents such as “sensitive business material”].~~ Confidential business and financial  
 17 information, including but not limited to proprietary business information and sensitive  
customer or client information.

18     3.     SCOPE

19     The protections conferred by this agreement cover not only confidential material (as  
 20 defined above), but also (1) any information copied or extracted from confidential material;  
 21 (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any  
 22 testimony, conversations, or presentations by parties or their counsel that might reveal  
 23 confidential material.

24     However, the protections conferred by this agreement do not cover information that is  
 25 in the public domain or becomes part of the public domain through trial or otherwise.

1       4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2       4.1 Basic Principles. A receiving party may use confidential material that is  
 3 disclosed or produced by another party or by a non-party in connection with this case only for  
 4 prosecuting, defending, or attempting to settle this litigation. Confidential material may be  
 5 disclosed only to the categories of persons and under the conditions described in this  
 6 agreement. Confidential material must be stored and maintained by a receiving party at a  
 7 location and in a secure manner that ensures that access is limited to the persons authorized  
 8 under this agreement. It is expressly intended and agreed that Confidential material will not be  
 9 made public via social media, Internet publication, or otherwise.

10      4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
 11 ordered by the court or permitted in writing by the designating party, a receiving party may  
 12 disclose any confidential material only to:

13           (a) the receiving party’s counsel of record in this action, as well as  
 14 employees of counsel to whom it is reasonably necessary to disclose the information for this  
 15 litigation;

16           (b) the officers, directors, and employees (including in house counsel) of the  
 17 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties  
 18 agree that a particular document or material produced is for Attorney’s Eyes Only and is so  
 19 designated;

20           (c) experts and consultants to whom disclosure is reasonably necessary for  
 21 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
 22 (Exhibit A);

23           (d) the court, court personnel, and court reporters and their staff, including  
 24 any court reporter or videographer reporting a deposition;

25           (e) copy or imaging services, – database services, and trial support firms  
 retained by counsel to assist in the duplication, production, or storage of confidential material,

1 provided that counsel for the party retaining the ~~copy or imaging~~ service instructs the service  
 2 not to disclose any confidential material to third parties and to immediately return all originals  
 3 and copies of any confidential material;

4                 (f)        during their depositions, witnesses in the action to whom disclosure is  
 5 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
 6 Bound” (Exhibit A), unless otherwise agreed by the designating party or ordered by the court.  
 7 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential  
 8 material must be separately bound by the court reporter and may not be disclosed to anyone  
 9 except as permitted under this agreement;

10                 (g)        the author or recipient of a document containing the information or a  
 11 custodian or other person who otherwise possessed or knew the information;  
 12                 (h) professional jury or trial consultants, mock jurors, and professional vendors  
 13 to whom disclosure is reasonably necessary for this litigation and who have signed the  
 14 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

15                 (iii) other persons only by written consent of the producing party or upon  
 16 order of the court, and on such conditions as may be agreed or ordered.

17                 4.3 Filing Confidential Material. Before filing confidential material or discussing or  
 18 referencing such material in court filings, the filing party shall confer with the designating  
 19 party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating  
 20 party will remove the confidential designation, whether the document can be redacted, or  
 21 whether a motion to seal or stipulation and proposed order is warranted. During the meet and  
 22 confer process, the designating party must identify the basis for sealing the specific  
 23 confidential information at issue, and the filing party shall include this basis in its motion to  
 24 seal, along with any objection to sealing the information at issue. Local Civil Rule 5(g) sets  
 25 forth the procedures that must be followed and the standards that will be applied when a party  
 seeks permission from the court to file material under seal. A party who seeks to maintain the

1 confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B),  
 2 even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result  
 3 in the motion to seal being denied, in accordance with the strong presumption of public access  
 4 to the Court's files.

5. **DESIGNATING PROTECTED MATERIAL**

6. 5.1 **Exercise of Restraint and Care in Designating Material for Protection.** Each  
 7 party or non-party that designates information or items for protection under this agreement  
 8 must take care to limit any such designation to specific material that qualifies under the  
 9 appropriate standards. The designating party must designate for protection only those parts of  
 10 materials, documents, items, or oral or written communications that qualify, so that other  
 11 portions of the materials, documents, items, or communications for which protection is not  
 12 warranted are not swept unjustifiably within the ambit of this agreement.

13 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
 14 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
 15 unnecessarily encumber or delay the case development process or to impose unnecessary  
 16 expenses and burdens on other parties) expose the designating party to sanctions.

17 If it comes to a designating party's attention that information or items that it designated  
 18 for protection do not qualify for protection, the designating party must promptly notify all other  
 19 parties that it is withdrawing the mistaken designation.

20 5.2 **Manner and Timing of Designations.** Except as otherwise provided in this  
 21 agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise stipulated or  
 22 ordered, disclosure or discovery material that qualifies for protection under this agreement  
 23 must be clearly so designated before or when the material is disclosed or produced.

24 (a) **Information in documentary form:** (e.g., paper or electronic documents  
 25 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial  
 proceedings), the designating party must affix the word "CONFIDENTIAL" to the bottom of

1 ~~each page of the document each page that contains confidential material. If only a portion or~~  
 2 ~~portions of the material on a page qualifies for protection, the producing party also must clearly~~  
 3 ~~identify the protected portion(s) (e.g., by making appropriate markings in the margins).~~

4 (b) Testimony given in deposition or in other pretrial proceedings: the  
 5 parties and any participating non-parties ~~must may~~ identify on the record, during the deposition  
 6 or other pretrial proceeding, all protected testimony, without prejudice to their right to so  
 7 designate other testimony after reviewing the transcript. All deposition transcripts will be  
 8 treated as confidential for fifteen days after receipt of the transcript. Any party or non-party  
 9 may, within fifteen days after receiving the transcript of the deposition or other pretrial  
 10 proceeding, designate portions of the transcript, or exhibits thereto, as confidential. If a party  
 11 or non-party desires to protect confidential information at trial, the issue should be addressed  
 12 during the pre-trial conference.

13 (c) Other tangible items: the producing party must affix in a prominent place  
 14 on the exterior of the container or containers in which the information or item is stored the  
 15 word “CONFIDENTIAL.” If only a portion or portions of the information or item warrant  
 16 protection, the producing party, to the extent practicable, shall identify the protected portion(s).

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
 18 designate qualified information or items does not, standing alone, waive the designating  
 19 party’s right to secure protection under this agreement for such material. Upon timely  
 20 correction of a designation, the receiving party must make reasonable efforts to ensure that the  
 21 material is treated in accordance with the provisions of this agreement.

22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any party or non-party may challenge a designation of  
 24 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality  
 25 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to

1 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
 2 original designation is disclosed.

3       6.2     Meet and Confer. The parties must make every attempt to resolve any dispute  
 4 regarding confidential designations without court involvement. Any motion regarding  
 5 confidential designations or for a protective order must include a certification, in the motion  
 6 or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer  
 7 conference with other affected parties in an effort to resolve the dispute without court action.  
 8 The certification must list the date, manner, and participants to the conference. A good faith  
 9 effort to confer requires a face-to-face meeting or a telephone conference.

10      6.3     Judicial Intervention. If the parties cannot resolve a challenge without court  
 11 intervention, the designating party may file and serve a motion to retain confidentiality under  
 12 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden  
 13 of persuasion in any such motion shall be on the designating party. Frivolous challenges, and  
 14 those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and  
 15 burdens on other parties) may expose the challenging party to sanctions. All parties shall  
 16 continue to maintain the material in question as confidential until the court rules on the  
 17 challenge.

18      7.     PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
 19     OTHER LITIGATION

20      If a party is served with a subpoena or a court order issued in other litigation that  
 21 compels disclosure of any information or items designated in this action as  
 22 “CONFIDENTIAL,” that party must:

23           (a)     promptly notify the designating party in writing and include a copy of  
 24 the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN  
THIS LITIGATION

The terms of this Stipulated Protective Order are applicable to information produced by a non-party in this action and designated as “CONFIDENTIAL.” Such information produced by non-parties in connection with this litigation is protected by the remedies and relief provided by this Stipulated Protective Order. Nothing in these provisions should be construed as prohibiting a non-party from seeking additional protections.

In the event that a party is required, by a valid discovery request, to produce a non-party's confidential information in its possession, and the party is subject to an agreement with the non-party not to produce the non-party's confidential information, then the party shall:

- a) promptly notify in writing the requesting party and the non-party that some or all of the information requested is subject to a confidentiality agreement with a non-party;
  - b) promptly provide the non-party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and
  - c) make the information requested available for inspection by the non-party.

If the non-party fails to object or seek a protective order from this court within fourteen days of receiving the notice and accompanying information, the receiving party may produce the non-party's confidential information responsive to the discovery request. If the non-party timely seeks a protective order, the receiving party shall not produce any information in its

1 possession or control that is subject to the confidentiality agreement with the non-party before  
 2 a determination by the court. Absent a court order to the contrary, the non-party shall bear the  
 3 burden and expense of seeking protection in this court of its pProtected mMaterial.

4

5 **98. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6 If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
 7 confidential material to any person or in any circumstance not authorized under this agreement,  
 8 the receiving party must immediately (a) notify in writing the designating party of the  
 9 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
 10 protected material, (c) inform the person or persons to whom unauthorized disclosures were  
 11 made of all the terms of this agreement, and (d) request that such person or persons execute  
 12 the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

13 **109. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
 14 **PROTECTED MATERIAL**

15 When a producing party gives notice to receiving parties that certain inadvertently  
 16 produced material is subject to a claim of privilege or other protection, the obligations of the  
 17 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
 18 provision is not intended to modify whatever procedure may be established in an e-discovery  
 19 order or agreement that provides for production without prior privilege review. The parties  
 20 agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

21 **1110. NON-TERMINATION AND RETURN OF DOCUMENTS**

22 Within 60 days after the termination of this action, including all appeals, each receiving  
 23 party must return all confidential material to the producing party, including all copies, extracts  
 24 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of  
 25 destruction.

1 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
2 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
3 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert  
4 work product, even if such materials contain confidential material.

5 The confidentiality obligations imposed by this agreement shall remain in effect until  
6 a designating party agrees otherwise in writing or a court orders otherwise.

7  
8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 DATED: \_\_\_\_\_

10 Dayna J. Christian, WSB #32459  
11 Immix Law Group PC  
12 400 Winslow Way E., Suite 210  
13 Bainbridge Island, WA 98110  
14 Phone: (503) 802-5533  
15 Fax: (503) 802-5351  
16 Email: dayna.christian@immixlaw.com

17 *Attorneys for Plaintiff and Counterclaim*  
18 *Defendants*

19 DATED: \_\_\_\_\_

20 Russell D. Nugent, *pro hac vice*  
21 The Humphries Law Firm P.C.  
22 1904 Eastwood Rd, Ste 310A  
23 Wilmington, NC 28403  
24 Phone: 910-899-0236  
25 Fax: 888-290-7817  
26 Email: russell@kinglawonline.com

27 *Attorneys for Plaintiff and Counterclaim*  
28 *Defendants**Attorneys for Plaintiff*

29 DATED: \_\_\_\_\_

30 Stuart R. Dunwoody, WSBA #13948  
31 Lauren B. Rainwater, WSBA #43625  
32 MaryAnn T. Almeida, WSBA #49086  
33 Eric A. Franz, WSBA #52755  
34 DAVIS WRIGHT TREMAINE LLP

920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Telephone: (206) 622-3150  
Fax: (206) 757-7700  
Email: stuarddunwoody@dwt.com  
Email: laurenrainwater@dwt.com  
Email: maryannalmeida@dwt.com  
Email: ericfranz@dwt.com

*Attorneys for Defendant and Counterclaim Plaintiff*

## II. ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED:

The Honorable S. Kate Vaughan[Name of  
Judge]  
United States MagistrateDistrict Court  
Judge

## EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of

[print or type full address], declare under penalty

of perjury that I have read in its entirety and understand the Stipulated Protective Order that

was issued by the United States District Court for the Western District of Washington on

[date] in the case of *TSR LLC v. Wizards of the Coast LLC and Wizards of the*

*Coast LLC v. TSR LLC, Justin LaNasa, and Dungeon Hobby Shop Museum* (~~United States~~

District Court for the Western District of Washington Case No. 2:21-cv-01705-

~~SKV) — insert formal name of the case and the number and initials~~

**[REDACTED]** I agree to comply with and to be bound by all the terms of this

Stipulated Protective Order and I understand and acknowledge that failure to so comply could

expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I

will not disclose in any manner any information or item that is subject to this Stipulated

Protective Order to any person or entity except in strict compliance with the provisions of this

I further agree to submit to the jurisdiction of the United States District Court for the

Western District of Washington for the purpose of enforcing the terms of this Stipulated

Protective Order, even if such enfor-

City and State where sworn and signed:

Printed name:

Signature: